

Hearing Date: December 14, 2017, 1:30 p.m. (AST)

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

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In re:	PROMESA
	Title III
THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,	No. 17 BK 3283-LTS
as representative of	(Jointly Administered)
THE COMMONWEALTH OF PUERTO RICO, <i>et al.</i> ,	
Debtors. ¹	Re: ECF 1870

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[Caption continued on next page]

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

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NATIONAL PUBLIC FINANCE GUARANTEE
CORPORATION, *et al.*

PROMESA
Title III

Movants,

v.

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Respondents.

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AD HOC GROUP OF GENERAL OBLIGATION
BONDHOLDERS, ASSURED GUARANTY CORP.,
AND THE MUTUAL FUND GROUP,

PROMESA
Title III

Movants,

v.

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Respondents.

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AMBAC ASSURANCE CORPORATION,

PROMESA
Title III

Movants,

v.

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Respondents.

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GROUP OF SECURED CREDITORS OF THE
EMPLOYEES RETIREMENT SYSTEM OF THE
COMMONWEALTH OF PUERTO RICO,

PROMESA
Title III

Movants,

v.

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Respondents.

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**OBJECTIONS AND RESPONSES OF THE OVERSIGHT BOARD, THE
COMMONWEALTH AND AAFAF TO THE URGENT RENEWED JOINT MOTION BY
THE AD HOC GROUP OF GENERAL OBLIGATION BONDHOLDERS, AMBAC
ASSURANCE CORPORATION, ASSURED GUARANTY CORP., ASSURED
GUARANTY MUNICIPAL CORP., THE MUTUAL FUND GROUP, AND NATIONAL
PUBLIC FINANCE GUARANTEE CORPORATION FOR ORDER AUTHORIZING
RULE 2004 EXAMINATION**

The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), and the Commonwealth of Puerto Rico (the “Commonwealth”), by and through the Oversight Board as the Commonwealth’s representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² and the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”), hereby object and respond to the “*Urgent Renewed Joint Motion by the Ad Hoc Group of General Obligation Bondholders, Ambac Assurance Corporation, Assured Guaranty Corp. and Assured Guaranty Municipal Corp., The Mutual Fund Group, and National Public Finance Guarantee Corporation for an Order Authorizing Rule 2004 Examination*” [ECF No. 1870]. (The moving parties are referred to collectively as “Movants,” their joint motion is referred to as the “Renewed Joint Motion,” and the seventeen categories of documents requested in Schedule A thereto are referred to as the “Renewed Joint Requests”.)

INTRODUCTION

The Oversight Board, on behalf of itself and the Commonwealth, and AAFAF (collectively, “Respondents”) have made available to Movants documents responsive to the Renewed Joint Requests, and are in the process of making available additional responsive documents. This extensive disclosure process has proceeded voluntarily, and is continuing pursuant to Respondents’ commitment to transparency.

Respondents previously demonstrated that Movants are not entitled to an order pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (“Rule 2004”)

² PROMESA has been codified in 48 U.S.C. §§ 2101–2241.

requiring disclosure, particularly due to the “Pending Proceeding Rule,” which prohibits Rule 2004 examinations where the movant, as here, is party to an adversary proceeding on the same subject matter.³ Nevertheless, without waiving any of the substantive arguments supporting denial of the original motion or the Renewed Joint Motion, Respondents have voluntarily made available and are continuing to make available to Movants the voluminous information regarding the Commonwealth’s financial condition—entirely outside of the Rule 2004 context. As such, the Renewed Joint Motion is needless. Unfortunately, Movants continue to litigate over materials that, in substantial part, are already available to them, while arguing to the Court that Respondents have deprived them of necessary information. In certain instances where documents and information have not been provided, Respondents are prepared to provide responsive information. That said, the catastrophic effects of Hurricane Maria directly impact the reasonableness and materiality of disclosure sought by Movants.⁴ While the Renewed Joint Requests are less onerous than the many scores of duplicative requests initially sought by Movants, the Renewed Joint Requests, in certain instances, continue to seek information that, in the wake of the hurricanes, is unnecessary and beyond the scope of any reasonable disclosure.

In Point III of the Argument below, and as required by the Court, Respondents proceed request by request, to demonstrate (i) precisely where in the Data Room, public websites or otherwise the information sought by the Renewed Joint Requests may be

³ See Debtors’ Omnibus Objection to Motions for Orders authorizing Rule 2004 Discovery, filed September 19, 2017 [ECF No. 1345] at 17-26 (“Debtors’ Omnibus Objection”).

⁴ See Debtors’ and AAFAF’s Joint Supplemental Memorandum of Law in Further Support of Debtors’ Omnibus Objection to Motions for Orders Authorizing Rule 2004 Discovery, filed November 3, 2015 [ECF No. 1616] (“Debtors’ Supplemental Memorandum”).

found; (ii) what additional materials will be uploaded to the Data Room; (iii) what investigation is still underway to determine if responsive documents exist; and (iv) where Movants must provide clarifications or additional information so that a response can be provided.⁵ In addition, in those instances where Respondents object to the production of materials, Respondents set forth with specificity the grounds for the objection. Movants' request for an order pursuant to Rule 2004 to take examinations of Respondents should not only be denied as a matter of law, it is wholly unnecessary as a matter of fact.

Respondents remain ready, willing, and able to engage in a meaningful meet and confer process. Movants, however, filed the Renewed Joint Motion without any prior consultation with Respondents, insisting instead that the parties' time and efforts be devoted to litigating this discovery dispute rather than attempting to resolve it without Court intervention.⁶ Respondents continue to believe that such a strategy is unproductive and wasteful, and that the Court should continue to encourage meet and confer efforts instead of ordering Rule 2004 discovery.

BACKGROUND

In August and September, 2017, Movants filed overlapping and largely duplicative Motions (the "Initial Motions"⁷) seeking permission pursuant to Rule 2004 to propound a

⁵ Respondents and Movants will provide the Court with the Joint Status Report with further information on December 11, 2017.

⁶ In fact, via email on December 1, 2017, Respondents sought clarification from Movants as to the meaning of a request but have not received any response.

⁷ See (i) Motion of National Public Finance Guarantee Corporation for Entry of an Order Pursuant to Bankruptcy Rule 2004 Authorizing Discovery, filed August 25, 2017 [ECF No. 1177]; (ii) Joint Motion by the Ad Hoc Group of General Obligation Bondholders, Assured Guaranty Corp. Assured Guaranty Municipal Corp., and the Mutual Fund Group for Order Authorizing Rule 2004 Examination, filed

combined 181 exhaustive document requests, to take testimony from the Debtors and their representatives, and to issue subpoenas for the production of documents and examination of other third parties (the “Initial Requests”). Despite seeking to invoke Rule 2004, Movants were and continue to be parties to adversary proceedings where discovery has not yet commenced in light of pending dismissal motions.⁸

In response to the Initial Motions, the Debtors filed Debtors’ Omnibus Objections, emphasizing that Respondents had voluntarily produced extensive documents that met Movants’ legitimate entitlement to disclosure. Debtors also argued that the Initial Requests were barred by the Pending Proceeding Rule and the deliberative process privilege, and were calculated to challenge the Oversight Board’s certification of the Fiscal Plan, which is prohibited by PROMESA § 106(e), or to challenge a Plan of Adjustment that had not yet been proposed. Debtors also objected to the enormous scope of the Initial Requests, which exceeded any conceivable need for relevant information and would put an intolerable burden on Respondents’ resources.

Before the hearing on the Initial Motions, Hurricane Maria devastated Puerto Rico. As described in Debtors’ Supplemental Memorandum, as a result of the storm, the Oversight Board announced on October 31, 2017, that it would be necessary to revise the Fiscal Plan and certify a new Fiscal Plan by February 23, 2018. As a consequence, Debtors Supplemental Memorandum argued that the Initial Requests, devoted in material part to

August 27, 2017 [ECF No. 1178]; and (iii) Ambac’s Motion for Entry of Order Authorizing Discovery Under Bankruptcy Rule 2004, filed September 12, 2017 [ECF No. 1283].

⁸ See, *infra*, n. 15.

obtaining discovery to challenge the existing Fiscal Plan and any proposed plan of adjustment emanating from it, were stale. The information sought was thus immaterial to any legitimate discovery requests and, Debtors argued, should be denied. As detailed in Point III, certain of the Renewed Joint Requests suffer from this same infirmity.

The Court heard argument on the Initial Motions at the November 15, 2017 Omnibus Hearing and denied them without prejudice.⁹ In authorizing Movants to refile their Rule 2004 motion based to seek far more limited and narrowly focused requests, the Court stated that a renewed motion would be based on “a representation to me that says: We’ve asked for it. We didn’t get it. We’ve tried. We need it.”¹⁰ By order dated November 21, 2017, the Court set forth the procedural process to be followed by the parties “if” any of the Movants intended to refile their Rule 2004 motion.¹¹ But rather than engage with Respondents regarding the scope of disclosure as the Court expected, Movants simply filed the Renewed Joint Motion on November 28, without attempting to engage with Respondents. The Renewed Joint Motion was filed without the requisite meet-and-confer representation concerning the renewed requests because Movants had not engaged in any discussions with Respondents. Instead, they simply reiterated their pre-November 15 arguments that they had been “seeking basic information for six months”¹² and sought to have the motion heard on an “urgent” schedule, including giving Respondents one-half the

⁹ See Order filed November 17, 2015 [ECF No. 1827].

¹⁰ November 15 Tr. at 136.

¹¹ ECF No. 1847

¹² Joint Renewed Motion at 2.

amount of time to respond to their motion than Movants took to prepare and file it. By order dated November 30, 2017, the Court set the schedule requested by Movants.¹³

ARGUMENT

I. ALTHOUGH RESPONDENTS HAVE MADE AND CONTINUE TO MAKE DOCUMENTS AVAILABLE TO MOVANTS OUTSIDE THE RULE 2004 CONTEXT, THE PENDING PROCEEDING RULE PRECLUDES MOVANTS REQUEST FOR AUTHORIZATION TO CONDUCT RULE 2004 EXAMINATION

In Point III below, Respondents identify on a request-by-request basis the documents voluntarily made available relative to the documents sought by the Renewed Joint Motion. Respondents, however, have not waived and do not waive their legal objections to the Renewed Joint Motion on the ground of the Pending Proceeding Rule. In that regard, Respondents respectfully refer the Court to Debtors' Omnibus Objection (at 17-26) in which they established that the Initial Motions should be denied under Local Rule of Bankruptcy Procedure 2004-1 and governing case law because each of the Movants is a party to one or more an adversary proceedings seeking relief directly related to disclosure sought by the Initial Motions.¹⁴ *See e.g. In re 2435 Plainfield Ave., Inc.*, 223 B.R. 440, 455 (Bankr. D.N.J. 1998) (denying discovery under Rule 2004 in a pending adversary proceeding because "[t]he majority of courts that have addressed this issue have prohibited a Rule 2004 exam of parties involved in or affected by an adversary proceeding while it is

¹³ ECF No. 1877.

¹⁴ *See* ECF No. 1345.

pending” (collecting cases)).¹⁵ Because each of the Movants remains party to one or more adversary proceedings in which the Renewed Joint Requests would be relevant, the Pending Proceeding Rule continues to require that the Renewed Joint Motion be denied as a matter of law.¹⁶

II. MOVANTS ARE NOT ENTITLED TO DOCUMENTS THAT IMPLICATE THE DELIBERATIVE PROCESS PRIVILEGE

Debtors also established in their Omnibus Objection that Movants are not entitled to documents that reflect “advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated.” *Dep’t of Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1, 8 (2001); *see also* Debtors’ Omnibus Objection at 29-33. To be sure, the Oversight Board was specifically made part of the Commonwealth government pursuant to PROMESA § 101(C)(1) to enjoy, among other protections, this privilege. Coupled with the broad informational powers Congress granted to the Oversight Board (*see* sections 104(o) (obtaining official data); 104(f) (subpoena powers); 104(o) (conducting investigations); and 202 (developing a fiscal plan), and PROMESA’s directive that the

¹⁵ *See also* this Court’s remarks at the August 22, 2017 Hearing, Tr. at 28:20-24 (“But then I run into the principle that, if the same discovery is being sought in an adversary proceeding, it seems to be a pretty bright line about having the discovery at least be governed by the Rules of Civil Procedure for that category.”)

¹⁶ Set forth below are the adversary proceedings to which each Movant is currently a party:
GO Group: *ACP Master, Ltd. v. Commonwealth*, Adv. Proc. No. 17-00189- LTS (Bankr. D. P.R.);
Ambac: *Ambac Assurance Corp v. Commonwealth of Puerto Rico*, Adv. Proc. No. 17-00159-LTS (Bankr. D. P.R.);
Assured: *Assured Guaranty Corp. v. Commonwealth of Puerto Rico*, Adv. Proc. No. 17-00155-LTS, 17-001156-LTS;
National: *Assured Guaranty Corp. v. Commonwealth of Puerto Rico*, Adv. Proc. No. 17-00155-LTS, 17-001156-LTS.

Oversight Board's certification determinations are not subject to Court review, it is manifest that Movants must not be permitted to invade the governmental decision making process under the guise of seeking Rule 2004 disclosures.

As demonstrated in Point III, certain of the Renewed Joint Requests directly implicate the deliberative process privilege and are not subject to disclosure.

III. RESPONDENTS HAVE MADE AVAILABLE, AND WILL CONTINUE TO MAKE AVAILABLE, IN THE DATA ROOM AND/OR THROUGH PUBLIC DISCLOSURES, RESPONSIVE NON-PRIVILEGED DOCUMENTS AND DATA

In its November 21 order (at 1.b.), the Court directed that in responding to any renewed requests by Movants, the Respondents should identify the "specific location" where documents previously produced can be found. In addition to providing the information directed by the Court, and without waiver of its objections to the Renewed Joint Motion set forth above, Respondents set forth below several categories of responses with respect to each of the Renewed Joint Requests:

1. *General Objections.* Respondents object to the Renewed Joint Requests to the extent they seek documents and information that are protected from discovery by the Attorney-Client Privilege, Attorney Work-Product Doctrine, the Executive and Deliberative Process Privilege, the Common Interest Doctrine, or any other applicable privileges, doctrines, or immunities protecting information from disclosure. Respondents also object that the Renewed Joint Requests are overbroad and unduly burdensome and to the extent they require Respondents to produce documents and information that are equally or more readily available from public sources. Additionally, in responding to the Renewed Joint Requests or providing any documents in response thereto, Respondents do not waive

any applicable privilege, confidentiality restriction or the obligation of Movants to execute any necessary non-disclosure agreements. Respondents further object to the Renewed Joint Requests as overbroad and unduly burdensome because Respondents have provided extensive documents on public websites and in the Data Room that are more than sufficient to meet Movants' professed interest in "shed[ding] light [on] the current condition of the Commonwealth."¹⁷ Even if Movants were entitled to invoke Rule 2004 – which they are not – they would not be entitled to additional disclosure, particularly in light of their failure to explain how the vast amount of information made available by Respondents is insufficient.¹⁸ Respondents further object to the Renewed Joint Requests as irrelevant, overbroad and unduly burdensome to the extent they seek disclosure of additional materials that pertain to the March 2017 Fiscal Plan or predate the 2017-2018 Fiscal Year. As explained above, the devastation brought by Hurricanes Irma and Maria has so materially changed the Commonwealth's economic situation that historical financial information and further discovery into the March 2017 Fiscal Plan has no relevance to the Commonwealth's current fiscal condition or the forthcoming revised fiscal plan. The burden that such discovery would pose on limited governmental resources already stretched thin is unjustifiable.

2. *Specific Objections.* In addition to the General Objections, Respondents have set forth additional objections, if any, that apply to the specific request.

¹⁷ See Joint Renewed Motion at 2.

¹⁸ The General Objections shall be deemed incorporated in the response to each and every Renewed Joint Request and will not be repeated in each.

3. *Materials Already Provided.* As directed by the Court, and without waiving any general objection or specific objection, Respondents identify the specific location where responsive documents have already been made available in the Data Room or on a public website.

4. *Additional Materials.* Under this category, Respondents identify additional documents that have not yet been made available to Movants but will be provided, without waiving any general objection or specific objection.

5. *Continuing Investigation.* Under this category, Respondents note where an investigation is underway to determine the existence of additional non-privileged responsive materials that may be located pursuant to a reasonable search.

SPECIFIC RESPONSES AND OBJECTIONS TO EACH RENEWED JOINT REQUEST

Document Request No. 1. Documents sufficient to show actual revenues and expenses, department by department, for Fiscal Years 2016, 2017 and year-to-date 2018. *See, e.g.,* Oversight Board Initial Request for Information, announced at The Financial Oversight and Management Board First Public Meeting (Sept. 30, 2016) (hereinafter, “FOMB Initial Request”).

Response to Request No. 1:

Specific Objections

Respondents further object to Request No. 1 to the extent it requests information on a “department by department” basis without defining precisely what Movants mean by that term. In any event, Respondents represent that such requested documents do not necessarily exist on a “department by department” basis and that determining whether they do would be overly burdensome. Of course, Respondents have no obligation to create documents or aggregate and compile data in response to the request.

Materials Already Provided

Respondents direct Movants to the following revenue and expense information

published by the Puerto Rico government.

Published Treasury Single Account Weekly Cash Flow Reports (“TSA Reports”)

These weekly reports show receipts deposited into and disbursements from the Commonwealth’s main operational bank account on a weekly basis and year-to-date for Fiscal Year 2018. As explained in the reports, receipts include tax collections, charges for services, intergovernmental collections, the proceeds of short and long-term debt issuances held in custody by the Secretary of Treasury, and other receipts. Disbursements include payroll and related costs, vendor and operational disbursements, welfare expenditures, capital outlays, debt service payments, required budgetary formulas and appropriation payments, pass-through payments of revenues to certain public corporations, tax refunds, payments of certain pension benefits and other disbursements. The reports include supporting schedules breaking out revenues and certain disbursements by source.

The TSA Reports are available under the “Recent Documents” heading on the AAFAF website¹⁹ and were published as follows:

Date	Available at
October 30, 2017	http://www.aafaf.pr.gov/assets/fy18-weekly-tsa-cash-flow-10-20-17.pdf
November 7, 2017	http://www.aafaf.pr.gov/assets/f18-weekly-tsa-cash-flow-10-27-17.pdf
November 14, 2017	http://www.aafaf.pr.gov/assets/fy18-weekly-tsa-cash-flow-11-03-17.pdf
November 21, 2017	http://www.aafaf.pr.gov/assets/fy18weeklytsacashflow11-10-17.pdf
November 28, 2017 ²⁰	http://www.aafaf.pr.gov/assets/fy18weeklytsacashflow-11-17-17.pdf
December 5, 2017	http://www.aafaf.pr.gov/assets/fy18weeklytsacashflow-11-24-17.pdf

Department of Treasury Press Releases

Puerto Rico’s Department of Treasury issued press releases providing General Fund Net Revenues for Fiscal Years 2016 and 2017, which are available on the Hacienda website²¹ and were published as follows:

Date	Available at
February 19, 2016	http://www.hacienda.gobierno.pr/sites/default/files/treasury_press_release_january_2016_revenues.pdf
March 16, 2016	http://www.hacienda.gobierno.pr/sites/default/files/treasury_press_release_march_2016_revenues.pdf

¹⁹ <http://www.aafaf.pr.gov/>

²⁰ As an example, the November 28, 2017 TSA Report is annexed as **Exhibit A** to the accompanying Declaration of Timothy W. Mungovan, dated December 6, 2017 (“Mungovan Decl.”).

²¹ <http://www.hacienda.gobierno.pr/inversionistas/comunicados-de-prensa-press-releases>

Date	Available at
	ss release february 2016 revenues 2 0.pdf
April 13, 2016	http://www.hacienda.gobierno.pr/sites/default/files/treasury_press_release_march_2016_revenues.pdf
May 16, 2016	http://www.hacienda.gobierno.pr/sites/default/files/treasury_press_release_-_april_2016.pdf
June 17, 2016	http://www.hacienda.gobierno.pr/sites/default/files/treasury_press_release_may_2016_revenues_.pdf
July 1, 2016	http://www.hacienda.gobierno.pr/sites/default/files/Inversionista/comunicado_de_prensa_estados_financieros_2014.pdf
August 15, 2016	http://www.hacienda.gobierno.pr/sites/default/files/treasury_press_release_-_july_2016_2_0.pdf
September 15, 2016	http://www.hacienda.gobierno.pr/sites/default/files/treasury_press_release_on_august_2016_revenues.pdf
October 14, 2016	http://www.hacienda.gobierno.pr/sites/default/files/comunicado_recaudos_septiembre_2016-17_-eng_-pdf
November 17, 2016	http://www.hacienda.gobierno.pr/sites/default/files/treasury_press_release_october_2016_revenues_2.pdf
February 1, 2017	http://www.hacienda.gobierno.pr/sites/default/files/puerto_rico_treasury_department_collects.pdf
April 20, 2017	http://www.hacienda.gobierno.pr/sites/default/files/treasury_press_release_-_march_2017_revenues_1.pdf
May 19, 2017	http://www.hacienda.gobierno.pr/sites/default/files/treasury_press_release_-_april_2017_revenues.pdf
June 20, 2017	http://www.hacienda.gobierno.pr/sites/default/files/cp_recaudos_ingles-_mayo.pdf
July 20, 2017	http://www.hacienda.gobierno.pr/sites/default/files/puerto_rico_treasury_collections_for_fiscal_year_2016_june.pdf
August 20, 2017 ²²	http://www.hacienda.gobierno.pr/sites/default/files/comunicado_de_recaudos_julio_-_ingles.pdf

General Fund Net Revenue Reports

The Commonwealth Government produces monthly reports of preliminary general fund net revenues, itemized by source. These monthly reports are published on the Hacienda website,²³ and were published as follows:

Date	Available at
<u>Fiscal Year 2016</u>	
July 2015	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_julio_2015-16.pdf
August 2015	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_agosto_2015-16.pdf
September 2015	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_septiembre_2015-16.pdf

²² As an example, the August 20, 2017 press release is annexed as **Exhibit B** to the Mungovan Decl.

²³

<http://www.hacienda.gobierno.pr/inversionistas/estadisticas-y-recaudos-statistics-and-revenues/ingresos-netos-al-fondo-general-general-fund-net-revenues>

Date	Available at
	os_septiembre_2015-16.pdf
October 2015	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_octubre_2015-16.pdf
November 2015	http://www.hacienda.gobierno.pr/sites/default/files/ingreso_netos_noviembre_2015-16.pdf
December 2015	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_diciembre_2015-16.pdf
January 2016	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_enero_2015-16.pdf
February 2016	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_febrero_2015-16.pdf
March 2016	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_marzo_2015-16.pdf
April 2016	http://www.hacienda.gobierno.pr/sites/default/files/ingreso_netos_fondo_general_abril_2015-16.pdf
May 2016	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_mayo_2015-16.pdf
June 2016	http://www.hacienda.gobierno.pr/sites/default/files/Inversionistas/ingresos_netos_junio_2015-16_ingresos_netos_junio_2015-16_0.pdf
<u>Fiscal Year 2017</u>	
July 2016	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_julio_2016-17_0.pdf
August 2016	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_agosto_2016-17.pdf
September 2016	http://www.hacienda.gobierno.pr/sites/default/files/copy_of_ingresos_netos_septiembre_2016-17.pdf
October 2016	http://www.hacienda.gobierno.pr/sites/default/files/copy_of_ingresos_netos_octubre_2016-17_3.pdf
November 2016	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_noviembre_2016-17.pdf
December 2016	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_diciembre_2016-17_1.pdf
January 2017	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_enero_2016-17.pdf
February 2017	http://www.hacienda.gobierno.pr/sites/default/files/copy_of_ingresos_netos_febrero_2016-17.pdf
March 2017	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_marzo_2016-17.pdf
April 2017	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_abril_2016-17_0.pdf
May 2017	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_mayo_2016-17.pdf
June 2017	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_junio_2016-17_0.pdf
<u>Fiscal Year 2018</u>	
July 2017 ²⁴	http://www.hacienda.gobierno.pr/sites/default/files/ingresos_netos_julio_2017-18.pdf

²⁴ As an example, the July 2017 (FY 2018) report is annexed as **Exhibit C** to the Mungovan Decl.

Date	Available at
	os_julio_2017-18.pdf

Sales and Use Tax Revenue Reports

The Commonwealth Government produces monthly figures for Sales and Use Tax revenue receipts.²⁵ Figures are available for all months in Fiscal Years 2016 and 2017, and for the first month in Fiscal Year 2018 (July 2017). The reports were published as follows:

Date	Available at
Fiscal Year 2016	http://www.hacienda.gobierno.pr/sites/default/files/Inversionistas/distribucion_mensual_ivu_junio_2015-16_sheet1.pdf
Fiscal Year 2017	http://www.hacienda.gobierno.pr/sites/default/files/distribucion_mensual_ivu_junio_2016-17_0.pdf
Fiscal Year 2018 (July 2017) ²⁶	http://www.hacienda.gobierno.pr/sites/default/files/distribucion_mensual_ivu_julio_2017-18_0.pdf

Additional Materials

Commonwealth Financial Statements

Audited financial statements are not yet available for Fiscal Years 2016 through 2018. When those documents are completed, they will be made available.

Unpublished Weekly TSA Reports

Respondents will make existing Weekly TSA Reports for weeks earlier than those that have already been published on the AAFAF website available to Movants. AAFAF will continue to publish weekly reports as they become available.

Fiscal Year 2018 Reporting Packages to the Oversight Board Beginning in August 2017

AAFAF sends reporting packages to the Oversight Board containing a variety of financial reports requested by Oversight Board. These reports, like the public weekly TSA Reports explained above, include detailed information regarding inflows to and outflows from the Treasury Single Account for Fiscal Year 2018.

The reporting packages contain preliminary numbers based on the best information available at the time. The numbers are not audited—the information in the reports is preliminary and subject to change. AAFAF and the Commonwealth Government do not express an opinion or any other form of assurance on the information contained in the reports.

²⁵

<http://www.hacienda.gobierno.pr/inversionistas/estadisticas-y-recaudos-statistics-and-revenues/ingreso-s-del-impuesto-sobre-ventas-y-uso-ivu-sales-and-use-tax-sut-revenues>

²⁶ As an example, the Fiscal Year 2018 (July 2017) report is annexed as **Exhibit D** to the Mungovan Decl.

Subject to the express disclaimers regarding the preliminary nature of the information in the reporting packages, and without waiving Respondents' right to assert privilege objections over any portions of these packages to which the privilege applies, Respondents agree to make the reporting packages available in the Data Room, subject to the nondisclosure agreements that govern documents uploaded therein.

Document Request No. 2. Monthly reports comparing budgeted to actual revenues and expenses, department by department, for Fiscal Years 2017 and 2018. See *Puerto Rico Bond Payments Will Improve After Nine Years: Jaresko*, THE BOND BUYER (Sept. 19, 2017) (Ex. A to GO Group Reply Brief In Support of Motion for Rule 2004 Examination, filed Nov. 7, 2017).

Response to Request No. 2:

Specific Objections

Respondents further object to Request No. 2 to the extent it requests information on a "department by department" basis without defining precisely what Movants mean by that term. In any event, Respondents represent that such requested documents do not necessarily exist on a "department by department" basis and that determining whether they do would be overly burdensome. Of course, Respondents have no obligation to create documents or aggregate and compile data in response to the request.

Materials Already Provided

Respondents direct Movants to the following budget, revenue and expense information published by the Puerto Rico government.

Published Weekly TSA Reports

See Response to Request No. 1. These reports include budget to actual variance analysis. See Ex. A to the Mungovan Decl.

General Fund Net Revenue Reports

See Response to Request No. 1. These reports provide comparisons between budgeted and actual revenues. See Ex. C to the Mungovan Decl.

Sales and Use Tax Revenue Reports

See Response to Request No. 1. These reports provide comparisons between budgeted and actual revenues. See Ex. D to the Mungovan Decl.

Fiscal Year 2017 and 2018 Budgets

On April 11, 2017, a document listing the web addresses for historical budget information, including the location to find detail on the Fiscal Year 2017 budget and 2017 budgets by agency, including headcount, was uploaded to the Data Room. (See "Links to budget

website,” located in file 1.1.5.1.2.16.).²⁷ Statistical tables regarding the Fiscal Year 2017 budget are also available on the Governor’s website.²⁸

The Commonwealth Government has published the same information for the Fiscal Year 2018 budget, including the proposed budget, budgets by agency,²⁹ and accompanying statistical tables.³⁰ On July 2, 2017, the Oversight Board published its certification of the 2018 Budget,³¹ along with the budget itself and a redline showing the Oversight Board’s revisions³².

The budget materials are published in Spanish. However, as explained in the document uploaded to the Data Room on April 11, 2017, the sites can be viewed through an unofficial website translator, such as Google Translate. Moreover, on June 30, 2017, the Oversight Board published its FY 2018 Budget Presentation, together with a 30+-page presentation explaining the Fiscal Year 2018 budget.³³ On August 3, 2017, the Oversight Board published unofficial English translations of the budget resolutions.³⁴

Additional Materials

Commonwealth Financial Statements

See Response to Request No. 1

Unpublished Weekly TSA Reports

See Response to Request No. 1.

²⁷ As disclosed in the links document, detail on the Fiscal Year 2017 budget is available at <http://www2.pr.gov/presupuestos/presupuesto2016-2017/Pages/default.aspx> and 2017 budgets by agency, including headcount are available at <http://www2.pr.gov/presupuestos/presupuesto2016-2017/Pages/PRESUPUESTO-POR-AGENCIA.aspx>.

²⁸ See “Tablas Estadísticas” heading at <http://www2.pr.gov/presupuestos/presupuesto2016-2017/Pages/default.aspx>

²⁹ <http://www2.pr.gov/presupuestos/PresupuestoRecomendado2017-2018/Pages/PRESUPUESTO-POR-AGENCIA.aspx>

³⁰ See ““Tablas Estadísticas” heading at <http://www2.pr.gov/presupuestos/presupuestoRecomendado2017-2018/Pages/default.aspx>

³¹ <https://juntasupervision.pr.gov/wp-content/uploads/wpdf/50/59570d1595f5e.pdf>

³² <https://juntasupervision.pr.gov/wp-content/uploads/wpdf/50/59591daabd5eb.pdf>

³³ <https://juntasupervision.pr.gov/wp-content/uploads/wpdf/50/5969454ae4034.pdf>.

³⁴ <https://juntasupervision.pr.gov/wp-content/uploads/wpdf/50/5983ddf444ee8.pdf>
<https://juntasupervision.pr.gov/wp-content/uploads/wpdf/50/5983ddf3eed0e.pdf>
<https://juntasupervision.pr.gov/wp-content/uploads/wpdf/50/5983ddf08c155.pdf>
<https://juntasupervision.pr.gov/wp-content/uploads/wpdf/50/5983ddf0d9c6b.pdf>

Fiscal Year 2018 Reporting Packages to the Oversight Board

See Response to Request No. 1. These reporting packages contain reports comparing budgeted to actual revenues and expenses.

The reporting packages contain preliminary numbers based on the best information available at the time. The numbers are not audited—the information in the reports is preliminary and subject to change. AAFAF and the Commonwealth Government do not express an opinion or any other form of assurance on the information contained in the reports.

Subject to the express disclaimers regarding the preliminary nature of the information in the reporting packages, and without waiving Respondents' right to assert privilege objections over any portions of these packages to which the privilege applies, Respondents agree to make the reporting packages available in the Data Room, subject to the nondisclosure agreements that govern documents uploaded therein.

Document Request No. 3. All unproduced and future weekly liquidity reports, in the form provided to the Oversight Board to the extent they are provided to the Oversight Board. See, *e.g.*, TSA FY 2018 Cash Flow Report dated Oct. 27, 2017 previously published by AAFAF; and TSA Cash Flow Actual to-Forecast Comparison dated May 26, 2017, available at https://drive.google.com-/file/d/0BwUldNJ-sOg_TkJGdFVtelZCTms/view.

Response to Request No. 3:

Specific Objections

Respondents further object to this Request on the grounds that it is overbroad and unduly burdensome because it requires Respondents to search for and review “all unproduced and future liquidity reports” without limitation.

Materials Already Provided

Published Weekly TSA Reports

See Response to Request No. 1; see also Ex. A to the Mungovan Decl.

Unpublished Weekly TSA Reports

See Response to Request No. 1.

Fiscal Year 2018 Reporting Packages to the Oversight Board

See Response to Request No. 1. These reporting packages contain additional reporting on inflows to and outflows from the TSA Account.

The reporting packages contain preliminary numbers based on the best information available at the time. The numbers are not audited—the information in the reports is preliminary and subject to change. AAFAF and the Commonwealth Government do not express an opinion or any other form of assurance on the information contained in the reports.

Subject to the express disclaimers regarding the preliminary nature of the information in the reporting packages, and without waiving Respondents' right to assert privilege objections over any portions of these packages to which the privilege applies, Respondents agree to make the reporting packages available in the Data Room, subject to the nondisclosure agreements that govern documents uploaded therein.

Liquidity Reports

The Oversight Board published Conway Mackenzie's Liquidity Report³⁵ on its website on November 18, 2016. The Oversight Board published AAFAF's Liquidity Plan³⁶ to its website on January 28, 2017. The Oversight Board published AAFAF's Liquidity Updates to its website on October 31, 2017³⁷ and December 5, 2017.³⁸

Additional Materials

Respondents will make existing TSA Reports that have not already been published on the AAFAF website available to Movants. Future reports will be publicly available.

Document Request No. 4. Monthly reports on Federal Funds received and disbursed by area and agency and monthly reports on any hurricane-related expenditures that have not yet been or will not be reimbursed from Federal Funds. *See, e.g.,* FOMB Initial Request.

Response to Request No. 4:

Specific Objections

Respondents further object to this Request on the grounds that it is overbroad and unduly burdensome because it requires Respondents to search for and review "[m]onthly reports" without limitation. Respondents further object to this request on the ground that the terms "Federal Funds," "area," and "agency" are undefined, rendering the request vague and ambiguous.

³⁵ <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/582f552275104.pdf>

³⁶ <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/588cda5d9cc56.pdf>

³⁷ <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/59f882282f987.pdf>

³⁸ <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/5a26e4fd1fef6.pdf>

Materials Already Provided

Published Weekly TSA Reports

See Response to Request No. 1. These reports include information regarding the receipt of federal funds. As explained in the report as of November 17, 2017, federal funds related to hurricane relief are deposited in a separate account overseen by the Government Authorized Representative, and transferred to the Treasury Single Account only after allowable disbursements have been made. These inflows will be captured on Schedule C and outflows will be captured on Schedule E. See Ex. A to the Mungovan Decl.

Office of Management and Budget Reports

Statistical reports showing historical receipts of federal funds by agency from 2011 to 2013, with 2014 estimates are publicly available on the Commonwealth Government's website.³⁹

Additional Materials

Unpublished Weekly TSA Reports

See Response to Request No. 1.

Fiscal Year 2018 Reporting Packages to the Oversight Board

See Response to Request No. 1. The November reporting package contains reporting regarding emergency assistance following the hurricanes.

The reporting packages contain preliminary numbers based on the best information available at the time. The numbers are not audited—the information in the reports is preliminary and subject to change. AAFAF and the Commonwealth Government do not express an opinion or any other form of assurance on the information contained in the reports.

Subject to the express disclaimers regarding the preliminary nature of the information in the reporting packages, and without waiving Respondents' right to assert privilege objections over any portions of these packages to which the privilege applies, Respondents agree to make the reporting packages available in the Data Room, subject to the nondisclosure agreements that govern documents uploaded therein.

Document Request No. 5. Monthly reports of all debt obligations due in the current fiscal year, including which such obligations have been paid. See FOMB

³⁹

<http://www2.pr.gov/agencias/FederalFunds/Library/Pages/Commonwealth-Budget---Federal-Funds-Statistical-Reports.-PR-Office-of-Management-and-Budget.-June-2013.aspx>

Initial Request.

Response to Request No. 5:

Specific Objections

Respondents further object to this Request on the grounds that it is overbroad and unduly burdensome because it requires Respondents to search for and review “[m]onthly reports” without limitation. Respondents also object to this Request on the ground that it is unduly burdensome to the extent that documents and information responsive to this Request are already provided in the Data Room.

Subject to and without waiving the foregoing objections, Respondents state as follows:

Materials Already Provided

March 2017 Fiscal Plan Debt Model

In addition to the debt schedule disclosed in the Certified Fiscal Plan, a native excel workbook that includes a debt service schedule through Fiscal Year 2026, and 36 tabs of backup materials was uploaded to the Intralinks Data Room on April 10, 2017. The March 2017 Fiscal Plan Debt Model is located in file 1.1.3.1 (“3.3.17 -- PR Fiscal Plan Debt Model vSHARE”) and the Fiscal Plan Debt Slides is located in file 1.1.3.2 (“Fiscal Plan Debt Slides”).

Additional Materials

An updated debt model will be uploaded to the Data Room when it becomes available.

Document Request No. 6. Quarterly reports on key Puerto Rico economic, financial, social and labor statistics. *See* FOMB Initial Request.

Response to Request No.6:

Specific Objections

Respondents further object to this Request on the grounds that the term “key” is undefined, rendering the request vague and ambiguous.

Materials Already Provided

Public Government Statistics

The Puerto Rico Government makes extensive statistical information publically available, including, but not limited to:

- PR Economic Indicator Summary.⁴⁰ As explained on the AAFAF website, “This report contains a selection of nearly 150 key indicators in Puerto Rico’s economy, and for comparison purposes, presents monthly data for the last ten years.” This AAFAF page includes Monthly Indicators updated as of December 1, 2017⁴¹, along with specialized reports as of December 1, 2017, including, but not limited to, reports on the labor force, payroll employment, retail sales, transportation and cargo, government revenues, and an economic activity index.
- PR Planning Board Reports.⁴² The Puerto Rico Planning Board publishes numerous responsive reports, including, but not limited to, monthly economic reports and accompanying statistical appendices, annual economic reports to the Governor, and trade balance comparisons by country.
- PR Institute of Statistics Publications. The Puerto Rico Institute of Statistics publishes an Inventory of Statistics that contains reports concerning Puerto Rico prepared by government agencies, public corporations, Puerto Rico municipalities, and the federal government.⁴³ The Institute of Statistics also publishes voluminous reports that are publicly available.⁴⁴
- GDB Economic Reports. The Government Development Bank publishes numerous economic activity reports.⁴⁵ Information hosted on the GDB website includes, but is not limited to, a monthly economic activity index report,⁴⁶ and detailed statistical appendices for the Planning Board’s annual economic report (see above).⁴⁷

Document Request No. 7. Monthly payroll reports by agency. See FOMB Initial Request.

Response to Request No. 7:

Specific Objections

Respondents further object to this Request on the grounds that it is overbroad and unduly burdensome because it requires Respondents to search for and review “[m]onthly payroll reports” without limitation. Respondents also object to this Request on the ground that it is

⁴⁰ <http://www.aafaf.pr.gov/pr-economic-indicators.html>

⁴¹ <http://www.aafaf.pr.gov/assets/prei12012017fafaagdb.pdf>

⁴² <http://jp.gobierno.pr/Plan-Econ-y-Social/Publicaciones>

⁴³ <http://www.estadisticas.gobierno.pr/iepr/Estadisticas/InventariodeEstadisticas.aspx>

⁴⁴ <http://www.estadisticas.gobierno.pr/iepr/Publicaciones/Publicaciones.aspx>

⁴⁵ <http://www.bgfpr.com/economy/>

⁴⁶ <http://www.bgfpr.com/economy/GDB-Economic-Activity-Index.html>

⁴⁷ <http://www.bgfpr.com/economy/statistical-appendix.html>

unduly burdensome to the extent that documents and information responsive to this Request are already provided in the Data Room.

Materials Already Provided

Published Weekly TSA Reports

See Response to Request No. 1. Payroll Outflows are included in these reports. See Ex. A.

Diligence Data

A voluminous workbook was made available in the Data Room on April 11, 2017, in response to a diligence request for “General Fund direct funding payroll and related costs by agency/entity.” The workbook contains yearly payroll and related costs projections from 2017-2026. The workbook is located in file 1.1.5.1.2.13 (“GF Budget - Joint Resolution Detail_vDataroom”).

Additional Materials

Unpublished Weekly TSA Reports

See Response to Request No. 1.

Fiscal Year 2018 Reporting Packages to the Oversight Board

See Response to Request No. 1. These reporting packages include payroll reports.

The reporting packages contain preliminary numbers based on the best information available at the time. The numbers are not audited—the information in the reports is preliminary and subject to change. AAFAF and the Commonwealth Government do not express an opinion or any other form of assurance on the information contained in the reports.

Subject to the express disclaimers regarding the preliminary nature of the information in the reporting packages, and without waiving Respondents’ right to assert privilege objections over any portions of these packages to which the privilege applies, Respondents agree to make the reporting packages available in the Data Room, subject to the nondisclosure agreements that govern documents uploaded therein.

Document Request No. 8. Items not produced (both methodological and inputs) with respect to the DevTech models or codes that generate anticipated inflation and GNP, including but not limited to information regarding the meaning and method of calculation of any undefined variables.

Response to Request No. 8:

Specific Objections

Respondents further object to this Request to the extent that it seeks documents and information constituting or reflecting financial advisors' confidential and proprietary information. Respondents further object to this Request on the ground that it is unduly burdensome, as extensive documents and information responsive to this Request are already provided in the Data Room.

Materials Already Provided

Respondents' production to date has been more than sufficient to satisfy this request. Respondents direct Movants to the following:

- A list of the macroeconomic assumptions used in the March 2017 Fiscal Plan was made available in the Data Room on April 5, 2017. *See* "acaScenarios," located in file 1.1.4.1.1.
- A three-page explanation of the macroeconomic framework that underpins the fiscal projections was made available in the Data Room on April 11, 2017. *See* "PR_Macroframework methodology" located in file 1.5.1.2.20.
- Fifteen articles and studies supporting the macroeconomic assumptions in the March 2017 Fiscal Plan were made available in the Data Room on June 26, 2017. *See* "Macroeconomic Support folder" located in file 1.1.5.2.2.
- A "road map" memorandum explaining the bases for the macroeconomic assumptions in the fiscal plan was made available in the Data Room on July 31, 2017. *See* "Macroeconomic Road Map Note" located in file 1.1.5.3.
- The macroeconomic model was created using specialized software. As an accommodation to creditors, the Oversight Board's economists created an Excel model intended to replicate their more sophisticated software programs. The Excel model was made available in the Data Room on July 31, 2017. *See* "Puerto Rico Macroeconomic Model" located in file 1.1.5.3.2.
- The raw data used in the economic model was made available in the Data Room on October 14, 2017. *See* "Macroeconomic Forecast Files folder" located in file 2.1.3.1. This data upload consists of two files: (1) a "log file" of the code that produces the baseline real GNP and inflation ("Baselinelog.pdf") (which is the "log file" of the code that produces the baseline real GNP and inflation), and (2) the actual data and code that runs on Stata - an industry standard econometric package - and which produces what is seen in the Baselinelog.pdf ("Baseline.do") (which is the actual data and code that runs on Strata - an industry standard econometric package - and which produces what is seen in the Baselinelog.pdf file discussed above).

Document Request No. 9. All models, analyses, and other documents supporting Andrew Wolfe's conclusion that "Puerto Rico's real economic growth needs to reach at least 0.8% to achieve fiscal and debt sustainability" and that "if Puerto Rico's real economic growth were to fall below the 0.8% threshold, a downward economic spiral would occur." Declaration of Andrew Wolfe ¶ 10, filed in *Peaje*

Investments LLC v. Puerto Rico Highways and Transportation Authority, Adv. Proc. No. 17-152, Dkt. 92 (July 14, 2017).

Response to Request No. 9:

Specific Objections

Respondents further object to this Request on the grounds that it is overbroad and unduly burdensome because it requires Respondents to search for and review “[a]ll models, analyses, and other documents” without limitation. Respondents further object to this Request to the extent it seeks documents and information constituting or reflecting financial advisors’ confidential and proprietary information.

Materials Already Provided

Dr. Andrew Wolfe’s Declaration cites numerous publicly available materials that he considered in forming his opinions.

Additional Materials

The workbook used by Dr. Wolfe in rendering his opinion stated in the Declaration of Andrew Wolfe ¶ 10, filed in *Peaje Investments LLC v. Puerto Rico Highways and Transportation Authority*, Adv. Proc. No. 17-152, Dkt. 92 (July 14, 2017) was produced in *Peaje* and was specifically produced, in compliance with a Court order, to several of the Movants (Ambac, Assured, National) who are plaintiffs in adversary proceedings in the HTA Title III case. The workbook, along with the entire expert production and the transcript of Dr. Wolfe’s deposition, will be provided in response to—and subject to the conditions of—the Response to Request No. 13.

Document Request No. 10. All models, analyses, and other documents supporting Andrew Wolfe’s conclusion that “(i) adopting a rate above \$0.214 per kWh or (ii) increasing the rate (even if not above \$0.214 per kWh) at a pace that is disproportionate to rate increases adopted by other Caribbean countries and the U.S. mainland region would eventually contribute to a downward economic spiral that would result in Puerto Rico returning to a path of declining economic activity, which would in turn adversely impact the demand for electricity and in the end lead to another debt service payments crisis for PREPA.” Declaration of Andrew Wolfe ¶ 12, filed in *In re Fin. Mgmt. & Oversight Bd as Representative of PREPA*, No. 17-4780, Dkt. 149-2 (July 31, 2017).

Response to Request No. 10:

Specific Objections

Respondents further object to this Request on the grounds that it is overbroad and unduly burdensome because it requires Respondents to search for and review “[a]ll models, analyses, and other documents” without limitation. Respondents further object to this Request to the extent that it seeks documents and information constituting or reflecting financial advisors’ confidential and proprietary information. Respondents further object to this request on the ground that Movants are not entitled to documents and information pertaining to instrumentalities for which they are not creditors.

Materials Already Provided

Dr. Andrew Wolfe’s Declaration cites numerous publicly available materials that he considered in forming his opinions.

Additional Materials

Respondents will make available documents used by Dr. Wolfe in rendering his opinion stated in the Declaration of Andrew Wolfe ¶ 12, filed in *In re Fin. Mgmt. & Oversight Bd as Representative of PREPA*, No. 17-4780, Dkt. 149-2 (July 31, 2017).

Additionally, the materials used by Dr. Wolfe include a workbook previously produced in *Peaje* (and provided to Movants Ambac, Assured, and National) and referenced in response to Request No. 9. The workbook, along with the entire expert production and the transcript of Dr. Wolfe’s deposition, will be provided in response to—and subject to the conditions of—the Response to Request No. 13.

Document Request No. 11. Documents relating to historical participation levels on an aggregate basis for each service line in the healthcare system, and the total cost by service line in the healthcare system on an historical basis, as well as assumed participation levels and assumed total costs by service line in any Fiscal Plan projections.

Response to Request No. 11:

Specific Objections

Respondents further object to this Request on the grounds that it is overbroad and unduly burdensome because it requires Respondents to search for and review “[d]ocuments” without limitation. Respondents further object to this request on the ground that it is vague, ambiguous, and unintelligible, particularly insofar as the terms “participation levels,” and “service line” are undefined.

Via email on December 1, 2017, Respondents sought clarification from Movants as to the meaning of this request but have not received any response. Respondents will renew their request for clarification to the extent that Movants are willing to participate in a meet and

confer.

Document Request No. 12. Materials reflecting the definition of “essential services,” and any supporting workbook or schedule analyzing the cost of the same.

Response to No. 12:

Specific Objections

This Request is irrelevant as the Oversight Board has previously explained on numerous occasions, the fiscal plan reduced expenses to the level that its economist advised that any further material reduction would prevent the Commonwealth from terminating its negative economic growth and attaining at least 0.8% positive economic growth which is the minimum level that would sustain the Commonwealth and enable it to become fiscally responsible with access to the capital markets. The foregoing analysis and constraints limited the expenses in the fiscal plan to those expenses essential to its statutory mission and objectives.

Document Request No. 13. All documents that You have produced or received, and all transcripts of depositions taken, in connection with discovery or disclosure in (1) these Title III Proceedings, including any adversary proceedings filed in any of the Title III Proceedings; (2) *Leon v. Rosselló-Nevares*, Civil No. SJ2017cv00107; (3) *Bhatia Gautier v. Rosselló-Nevares*, Civil No. SJ2017cv00271; and (4) *Centro Periodismo Investigativo v. Rosselló-Nevares*, Civil No. SJ2017cv00396.

Response to Request No. 13:

Specific Objections

Respondents further object to this Request on the grounds that it is overbroad and unduly burdensome because it requires Respondents to search for and review “[a]ll documents” without limitation.

Additional Materials

Upon reaching a mutually agreeable confidentiality agreement, Respondents will make the document productions available and deposition transcripts to Movants for those proceedings in which document productions and/or depositions have taken place. For the avoidance of doubt, the list of proceedings in which documents have been produced is as follows:

- *Centro Periodismo Investigativo v. Rosselló-Nevares*, Civil No. SJ2017cv00396

- *The Bank of New York Mellon v. Puerto Rico Sales Tax Financing Corporation (COFINA), et. al.*, Adv. Pro. No. 17-00133-LTS (D.P.R. May 16, 2017)
- *Peaje Investments LLC v. Puerto Rico Highways & Transportation Authority, et al.*, Nos. 17-151-LTS, 17-152-LTS (D.P.R. May 31, 2017)
- *Employees Ret. Sys. of the Gov't of the Commonwealth of Puerto Rico v. Altair Global Credit Opportunities Fund (A), LLC, et al.*, No. 17-00213 (D.P.R. July 21, 2017)
- *The Official Committee of Unsecured Creditors of the Commonwealth of Puerto Rico as Agent of The Commonwealth of Puerto Rico v. Bettina Whyte as Agent of The Puerto Rico Sales Tax Financing Corporation (In re: The Financial Oversight and Management Board for Puerto Rico)*, Adv. Pro. No. 17-00257-LTS (D. P.R. Sept. 8, 2017)

Note that no documents have been produced in *Leon* and *Bhatia*. Note that certain Movants (Assured, National, Ambac, and the Mutual Fund Group) have already received the requested information in several of these proceedings, as intervenors, parties, or as parties in adversary proceedings related to *Peaje*.

Document Request No. 14. Documents sufficient to show the (i) amounts and (ii) location and/or (iii) use of all revenues that have been or are subject to being “clawed back” from each of the Puerto Rico Highways and Transportation Authority, the Metropolitan Bus Authority, the Puerto Rico Convention Center District Authority, the Puerto Rico Infrastructure Financing Authority, the Puerto Rico Integrated Transportation Authority, or any other instrumentality of the Commonwealth for the purpose of paying the Commonwealth’s general obligation debt.

Response to Request No. 14:

Materials Already Provided

Published Weekly TSA Reports

See Response to Request No. 1. Revenues deposited into the Treasury Single Account, including revenues previously allocated to instrumentalities are included in these reports. See Ex. A.

Fiscal Year 2018 Budget

See Response to Request No. 1.

Schedules

Schedules of revenues retained by the Commonwealth were provided in the Data Room on June 26, 2017. See Fiscal Year 2018 Clawback Schedule, located in file 1.1.5.2.7 (“FY18 Clawback Schedule”); Clawback Table, located in file 1.1.5.2.10 (“Public Doc – Clawback Table”); TSA Liquidity – Additional Clawback and Moratorium Revenues Detail deck,

located in file 1.1.5.2.9 (“Moratorium Slide FP_April Update”). An update was uploaded on October 11, 2017. *See* TSA Liquidity – Certain Revenues Detail deck, located in file 2.1.3.16 (“Moratorium Slide FP_June Updatev8a”).

Additional Materials

Unpublished Weekly TSA Reports

See Response to Request No. 1.

Schedule Updates

Subsequent updates to the schedule will be made available in the Data Room when finalized.

Document Request No. 15. Documents sufficient to show the (i) amount and (ii) location and/or use of the proceeds of the “[s]pecial tax” imposed by 21 L.P.R.A. § 5002 “for the amortization and redemption of the general obligations of the Commonwealth,” including records reflecting amounts held in the “Commonwealth Debt Redemption Fund” required to be established pursuant to 21 L.P.R.A. § 5004(a).

Response to Request No. 15:

Materials Already Provided

An explanation of the status and treatment of the Special Property Tax in the Fiscal Plan model was made available in the Data Room on June 26, 2017 in response to a similar diligence inquiry. *See* SUT and Property Tax, located in file 1.1.5.2.12.

Continuing Investigation

Respondents are investigating to determine whether additional non-privileged responsive documents may be located pursuant to a reasonable search.

Document Request No. 16. To the extent not already produced or requested above, any inputs, calculations, or formulae underlying (i) the Fiscal Plan for Puerto Rico certified on March 13, 2017, and the Puerto Rico Electric Power Authority Fiscal Plan certified on April 28, 2017, (ii) revisions to either of such fiscal plans, and (iii) forthcoming fiscal plans for the Commonwealth, PREPA, PRASA, and any instrumentality when and as submitted (and/or resubmitted) to the Oversight Board, together with copies of such forthcoming fiscal plans when and as submitted (and/or resubmitted) to the Oversight Board.

Response to Request No. 16:

Specific Objections.

Respondents further object to this Request to the extent it seeks documents and information constituting or reflecting financial advisors' confidential and proprietary information. Respondents further object to this request on the ground that Movants are not entitled to documents and information pertaining to instrumentalities for which they are not creditors.

Materials Already Provided

The Oversight Board published AAFAF's Fiscal Plan Comparison to Historical Results⁴⁸ on its website on January 28, 2017.

All of the backup materials used to create the Commonwealth Fiscal Plan are in the Data Room. Those materials are summarized below:

Fiscal Plan Model

This model is also the same tool that AAFAF, the Oversight Board and their respective advisors have used for analysis and management related to the Fiscal Plan. The Fiscal Plan Model was made available in the Data Room on April 5, 2017. The Fiscal Plan model is a consolidating model (in Excel format) intended to provide a user-friendly tool presenting the 10-year estimated cash flows of the Commonwealth. It includes projections for General Fund revenue and expenses, the roll-up of "Component Units" (e.g., HTA and UPR), special appropriations, and the impact of fiscal measures. This model is also the same tool that AAFAF, the Oversight Board and their respective advisors have used for analysis and management related to the Fiscal Plan. See "PR Fiscal Plan Model vSHARE," located in file 1.1.2.1.

At the request of Ad Hoc Group of General Obligation bondholders and Assured, a version of the Fiscal Plan Model was uploaded that is both (i) "annotated" (with notes listing the source document for the majority of the revenue, expense, and fiscal measure line items in the Fiscal Plan) and (ii) "live" (which allows the user to change a single data point and see how that change filters through the rest of the model). This updated model was made available in the Data Room on June 6, 2017. See "3.13.2017 -- PR Fiscal Plan Model vSHARE LIVE," located in file 1.1.2.2. An update to the model to reflect the Oversight Board's revision to the pension baseline expense and pension measures was made available in the Data Room on September 8, 2017. See "Fiscal Plan Update 8.29.17 vDATAROOM," located in file 1.1.2.3.

Backup Materials

Extensive backup materials have been made available in the Data Room. They are summarized as follows:

⁴⁸ <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/588cda9a25693.pdf>

- The Fiscal Plan Debt Model. *See* Response to Request No. 5.
- Extensive documentation of the Macroeconomic model underlying the Fiscal Plan. *See* Response to Request No. 8.
- Source Documents. Seventeen source documents supporting the assumptions and methodologies that were employed in developing the macroeconomic, revenue, expenses, and measures forecasts were made available in the Data Room on April 5, 2017. *See* Sources Folder (1.1.4).
- Materials provided in response to diligence requests. Voluminous documents were made available in the Data Room in response to creditor diligence requests pertaining to nearly every aspect of the Fiscal Plan. Twenty-five documents were made available in the Data Room on April 11, 2017 (*see* Additional Sources Folder (1.1.5.1.2)) and another thirty-four were made available on June 26, 2017, including macroeconomic support described above (*see* June 26, 2017 Folder (1.1.5.2.)).

Additional Supporting Documents

Respondents have provided answers to creditor questions and additional supporting documentation. These materials were made available in the Data Room starting on August 29, 2017 and continuing through the present. *See* Folders 2.1 and 2.2.

Fiscal Plan Listening Session Documents

The presentation from the Oversight Board's first listening session on the revised fiscal plan, a collection of nearly 50 publications, including research papers, news articles and academic studies, along with an index of the collection and a spreadsheet compiling the key demographic and economic insights from those articles was made available in the Data Room on November 8 and November 9, 2017. *See* Folder 2.2.

The Oversight Board also published materials from its second public listening session on its website. These materials include a presentation on structural reforms,⁴⁹ macro effects on revenue and expenses,⁵⁰ the Fiscal Year 2017 budget review process,⁵¹ a liquidity update,⁵² and testimony from the Public Safety Secretary.⁵³

Additional Materials

⁴⁹ <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/5a26e5016164a.pdf>

⁵⁰ <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/5a26e50066ce2.pdf>

⁵¹ <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/5a26e4fd87a81.pdf>

⁵² <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/5a26e4fd1fef6.pdf>

⁵³ <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/5a26e426088cc.pdf>

Respondents will make documents from future listening sessions available, and will provide supporting materials for the revised Fiscal Plan upon certification of the plan by the Oversight Board.

Document Request No. 17. A fully functional model or workbook (in native format) showing how the Reconciliation Adjustment discussed on Page 15 of the Fiscal Plan for Puerto Rico certified on March 13, 2017 was calculated including but not limited to any backup or linked spreadsheets and all data run through such model(s) or workbook(s), and analysis or documents sufficient to show how the Reconciliation Adjustment is reflected in the budgets for the Commonwealth, any agency or instrumentally therefor and the FOMB including, but not limited to, any analysis prepared to compare or “bridge” each line item in the 2014, 2015, or 2016 preliminary or final audits to that Fiscal Plan.

Response to Request No. 17:

Specific Objections

Respondents further object to this Request to the extent it seeks documents and information constituting or reflecting financial advisors’ confidential and proprietary information.

Materials Already Provided

Financial Bridge Analysis Report

Ernst & Young’s Financial Bridge Analysis Report, which is the basis for the reconciliation adjustment, is publicly available,⁵⁴ and was made available in the Data Room on April 5, 2017. See “EY - Financial Bridge Report 3-7-17 vFINAL,” located in file 1.1.4.3.3.

Explanatory Presentation

An extensive presentation explaining the basis for the reconciliation adjustment and showing how the reconciliation adjustment is reflected in the FY18 budgets for the Commonwealth, any agency or instrumentally therefor and the Oversight Board was made available in the Data Room on August 30, 2017. See “20170830 Mediation session_Commonwealth Topics of Interest vFinal,” located in file 2.1.1.3.

A summary explanation of the distribution of the reconciliation adjustment amount in the FY18 budgets and of the process determining the reconciliation adjustment as part of the Fiscal Plan certification was made available in the Data Room on October 2, 2017. See “Government of PR due diligence responses (10.2.17),” located in file 1.1.5.5.1.

Comparison of FY14 Budget to Actual General Fund Expenditures

⁵⁴ <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/58c03d8708398.pdf>

A chart comparing FY14 original and amended budgets to actual General Fund expenses was made available in the Data Room on October 11, 2017. *See* “FY14 GF budget vs actual,” located in file 2.1.3.12.

H.R. Resolutions for FY18 Budgets

H.R. Resolutions for FY18 Budget approvals that show how the Reconciliation Adjustment of \$592 million is reflected in the FY18 budgets for the Commonwealth, any agency or instrumentality therefor and the Oversight Board have already been made public in both Spanish and English (unofficial translation) on the FOMB website. *See* Final H.R. Resolutions in Spanish (Resolucion Conjunta) 186 through 189, titled “Final RC 186,” “Final RC 187,” “Final RC 188,” and “Final RC 189,” located in FOMB website.⁵⁵ *See* Final H.R. Resolutions in English (unofficial translation) 186 through 189, titled “Budget Resolution H.R. 186 – Unofficial Translation to English,” “Budget Resolution H.R. 187 – Unofficial Translation to English,” “Budget Resolution H.R. 188 – Unofficial Translation to English,” and “Budget Resolution H.R. 189 – Unofficial Translation to English,” located in FOMB website.⁵⁶

Resolucion Conjunta 186 shows 14 line items titled “Para el ajuste de reconciliacion conforme al Plan Fiscal” showing distribution of \$545 million to various Commonwealth functions, agency, or instrumentality in FY18 budget. Resolucion Conjunta 187 shows one line item “Para el ajuste de reconciliacion conforme al Plan Fiscal” showing distribution of \$47 million to the custody of the Office of Management and Budget (Oficina de Gerencia y Presupuesto). These same line items are included in H.R. Resolutions 186 and 187 (unofficial translation to English) in line items titled “For reconciliation adjustment pursuant to the Fiscal Plan.”

Continuing Investigation

On September 21, 2017, the Oversight Board authorized the Puerto Rico Government to

⁵⁵ Final RC 186 is available at <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/596949b7da397.pdf>; Final RC 187 is available at <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/596949b8ce686.pdf>; Final RC 188 is available at <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/596949b9ea717.pdf>; and Final RC 189 is available at <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/596949bb4c3a4.pdf>.

⁵⁶ Budget Resolution H.R. 186 – Unofficial Translation to English is available at <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/5983ddf08c155.pdf>; Budget Resolution H.R. 187 – Unofficial Translation to English is available at <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/5983ddf0d9c6b.pdf>; Budget Resolution H.R. 188 – Unofficial Translation to English is available at <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/5983ddf3eed0e.pdf>; and Budget Resolution H.R. 189 – Unofficial Translation to English is available at <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/5983ddf444ee8.pdf>.

reallocate up to \$1 billion from the Fiscal Year 2018 budget for hurricane relief.⁵⁷
Respondents are investigating what information is available to evidence the reallocation.

Respondents are investigating whether there are additional non-privileged supporting materials regarding the calculation of the reconciliation adjustment, including workbooks.

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⁵⁷ See <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/59cc12233768c.pdf>

WHEREFORE the Respondents respectfully request the Court deny the Renewed Joint Motion and grant such other relief as is just and proper.

Dated: December 6, 2017
San Juan, Puerto Rico

Respectfully submitted,

/s/ Timothy W. Mungovan

Martin J. Bienenstock
Stephen L. Ratner
Timothy W. Mungovan
Paul V. Possinger
(Admitted *Pro Hac Vice*)
PROSKAUER ROSE LLP
Eleven Times Square
New York, NY 10036
Tel: (212) 969-3000
Fax: (212) 969-2900

Attorneys for the Financial Oversight and Management Board and as representative of the Commonwealth

/s/ Hermann D. Bauer

Hermann D. Bauer (USDC No. 215205)
O'NEILL & BORGES LLC
250 Muñoz Rivera Ave., Suite 800
San Juan, PR 00918-1813
Tel: (787) 764-8181
Fax: (787) 753-8944
Co-Attorneys for the Financial Oversight and Management Board and as representative of the Commonwealth

/s/ Peter Friedman

John J. Rapisardi
Suzanne Uhland
(Admitted *Pro Hac Vice*)
O'MELVENY & MYERS LLP
7 Times Square
New York, NY 10036
Tel: (212) 326-2000
Fax: (212) 326-2061

Peter Friedman
(Admitted *Pro Hac Vice*)
1625 Eye Street, NW
Washington, DC 20006
Tel: (202) 383-5300
Fax: (202) 383-5414

Elizabeth L. McKeen
(Admitted *Pro Hac Vice*)
610 Newport Center Drive
17th Floor
Newport Beach, California 92660
Tel: (949) 823-6900
Fax: (949) 823-6994

Attorneys for the Puerto Rico Fiscal Agency and Financial Advisory Authority

/s/ Andrés W. López

Andrés W. López (USDC No. 215311)
THE LAW OFFICES OF ANDRÉS W. LÓPEZ, P.S.C.
902 Fernández Juncos Ave.
San Juan, PR 00907

Tel: (787) 294-9508
Fax: (787) 294-9519

*Co-Attorney for the Puerto Rico Fiscal
Agency and Financial Advisory Authority*